

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2001-440-C - ORDER NO. 2002-75

FEBRUARY 1, 2002

IN RE: Application of Radio Communications of)	ORDER
Charleston, Inc. for a Certificate of Public)	GRANTING
Convenience and Necessity to Provide Local)	CERTIFICATE
Exchange Telecommunications Services)	
within the State of South Carolina.)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Radio Communications of Charleston, Inc. ("RCC") or the "Company") requesting a Certificate of Public Convenience and Necessity to provide competitive local exchange telecommunications services in the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (B) (Supp. 2000) and Section 253 of the Telecommunications Act of 1996.

By letter, the Commission's Executive Director instructed RCC to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. RCC complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") on November 30, 2001.

On January 15, 2002, counsel for SCTC filed with the Commission a Stipulation in which RCC stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until RCC provided written notice of its intent prior to the date of the intended service. RCC also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. RCC agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to RCC to provide local services provided the conditions contained in the Stipulation are met. The Stipulation was entered into the evidence of the hearing, and the Staff requested that the Stipulation be approved by the Commission. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on January 17, 2002, at 2:30 p.m., in the Commission's Hearing Room. The Honorable H. Clay Carruth, Jr., Vice Chairman, presided. RCC was represented by R. Patrick Flynn, Esquire. Jocelyn Boyd, Staff Counsel, represented the Commission Staff. Rick Buckner, President of RCC, appeared and testified on behalf of the Company.

Buckner, according to the record, has been in the mobile communications business since 1975. Radio Communications of Charleston, Inc. was incorporated by Buckner in 1975 and the Company is a full service wireless communications company

that has been providing telecommunications services to both business and residential customers since 1975 in South Carolina. The Company seeks to provide local exchange telecommunications services from BellSouth Telecommunications, Inc. (BellSouth) in South Carolina. As of the hearing date, RCC was in the process of negotiating an interconnection agreement with BellSouth.

According to the testimony, Mr. Buckner is the only officer of RCC. Although he had not yet attended any training classes from BellSouth, Mr. Buckner stated he anticipated attending CLEC training classes in the future. The Company will rely on the technical assistance of BellSouth for technical problems that arise in the course of RCC provisioning telecommunications services in South Carolina. Additionally, subsequent to RCC executing an interconnection agreement with BellSouth, the Company will begin providing telecommunications services in South Carolina. Mr. Buckner also stated that the Company will target Charleston, Berkeley, and Dorchester counties to provide telecommunications services.

RCC will provide its own billing services and the Company's name and customer service telephone number will appear on bills distributed to customers. Regarding the Company's customer service department, RCC will use the same customer service representatives for its wireline services that the Company utilizes for its wireless services. The customer service office will also be located in Goose Creek, South Carolina. The hours of the customer service center are eight until five, Monday through Friday. Otherwise, during the hours that a customer service representative is not available, RCC will be on call.

The record reveals that RCC has computers that are capable of interfacing with BellSouth's network. Mr. Buckner is the Company's customer service contact person. Moreover, RCC has a toll free "1-800 number" that it will utilize for customer service—the Company currently has a toll-free number from Sprint.

RCC has not applied for telecommunications authority from any other state, nor does the Company anticipate seeking authority from any other jurisdiction to provide telecommunications services. Mr. Buckner testified that RCC has not provided local or long distance services in South Carolina nor has the Company marketed its services or received revenue from the completion of intrastate calls in South Carolina to date.

Mr. Buckner testified that he understands that all the Company's rates must be approved by the Commission and he understands that all the Company's rates must be included in the Company's final tariff. The Company requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and will have records representing statewide operations. Additionally, the Company requests that it not be required to publish local exchange directories. RCC will make arrangements with the incumbent local exchange carriers (ILECs) whereby the names of RCC's customers will be included in the directories published by the ILECs. Furthermore, RCC further requests waivers of any reporting requirements which, although applicable to ILECs, are not applicable to competitive providers such as RCC because such requirements are (1) are not consistent with the demands of the competitive market; or (2) they constitute an undue burden on a competitive provider, thereby requiring an

inefficient allocation of its limited resources. Mr. Buckner testified that RCC seeks to be treated like all other certified CLECs in the State.

Upon consideration of the application and the record from the hearing, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. RCC is organized as a corporation organized under the laws of the State of South Carolina.

2. RCC wishes to provide local exchange services within the State of South Carolina.

3. The Commission finds that RCC possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 2000).

4. The Commission finds that RCC's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 2000).

5. The Commission finds that RCC will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 2000).

6. The Commission finds that RCC will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 2000).

7. The Commission finds that the provision of local exchange service by RCC "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 2000).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to RCC to provide competitive intrastate local exchange services within the State of South Carolina. The terms of the Stipulation between RCC and the SCTC (attached hereto as Exhibit 1) are approved and adopted as a portion of this Order. Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation. In accordance with the Stipulation, RCC may not provide any local service to a customer located in a rural incumbent LEC's service area, unless or until RCC provides such rural incumbent LEC and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. The Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon a showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from RCC that it intends to serve a customer located in a rural incumbent LEC's service area, and the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own,

no service may be provided by RCC in a rural incumbent LEC's service area pursuant to this Order without prior and further Commission approval.

2. RCC shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

3. RCC shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

4. RCC shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, RCC shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's web site at www.psc.state.sc.us/forms. This form is entitled "Annual Report for Competitive Local Exchange Carriers". Additionally, pursuant to the Commission's regulations, the Company shall file a CLEC Service Quality Quarterly Report with the Commission. The proper form for this report is Form #110 and can be found at www.psc.state.sc.us/forms/default.htm. Gross receipts forms are due to be filed with the Commission no later than October first.

5. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is

more commonly known as a “911 system” or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs RCC to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association (“SC NENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, RCC shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

6. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

RCC shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form the Company shall use to file this authorized utility representative information can be found at the Commission's website at www.psc.state.sc.us/forms. This form is entitled "Authorized Utility Representative Information." Further, the Company shall promptly notify the Commission in writing if the representatives are replaced. RCC shall also file with the Commission a copy of its general Bill Form as required by S.C. Code Regs. 103-612.2 and 103-622 (1976 and Supp. 2000).

7. Each telecommunications company certified in South Carolina is required to file annually the Intrastate State Universal Service Fund (USF) worksheet. This worksheet provides the Commission Staff information required to determine each telecommunications company's liability to the State USF fund. RCC shall file annually the Intrastate State Universal Service Fund (USF) worksheet due August 15 for calendar and fiscal year ending companies.

8. RCC requested waivers from certain Commission regulations and requirements. Specifically, RCC requested waivers from (1) the requirement found in Rule 103-631 to publish and distribute local exchange directories, and (2) the reporting requirements which, although applicable to ILECs, are not applicable to competitive providers such as RCC because such requirements: (1) are not consistent with the demands of the competitive market; or (2) they constitute an undue burden on a competitive provider. The Company also requested permission to exempt it from any requirement to maintain books and records in compliance with the USOA. The

Commission grants the request for waiver from the requirement to publish directories as RCC has indicated that it will contract with the incumbent local exchange company to include the customers of RCC in the directory listing of the ILEC directory. We deny the Company's request for a waiver of the Commission's reporting requirements. Reporting requirements are necessary for this Commission to monitor issues such as quality of service to ensure that telecommunications carriers are operating in compliance with the Commission's regulations. Further, the Commission grants RCC's request that it be allowed to keep its books and records in accordance with GAAP rather than the USOA.

9. RCC is directed to comply with all Commission regulations, unless a regulation is specifically waived by the Commission.

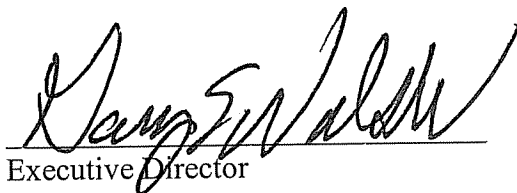
10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:


Executive Director

(SEAL)

FROM : RCC/First Page

PHONE NO. : 8435533564

Jan. 07 2002 12:29PM P3

DOCKET NO. 2001-440-C - ORDER NO. 2002-75
FEBRUARY 2, 2002
EXHIBIT #1

BEFORE

THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Docket No. 2001-440-C

Re: Application of Radio Communications of)
Charleston, Inc. for a Certificate of Public)
Convenience and Necessity to Provide Local)
Exchange Telecommunications Services in the)
State of South Carolina)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Radio Communications of Charleston, Inc. ("Radio Communications") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Radio Communications' Application. SCTC and Radio Communications stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Radio Communications, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. Radio Communications stipulates and agrees that any Certificate which may be granted will authorize Radio Communications to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
3. Radio Communications stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

FROM : RCC/First Page

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Jan. 07 2002 12:29PM P4

4. Radio Communications stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Radio Communications provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Radio Communications acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Radio Communications stipulates and agrees that, if Radio Communications gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Radio Communications will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Radio Communications acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Radio Communications, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

FROM : RCC/First Page

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8. Radio Communications agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Radio Communications hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 2nd day of JAN 2002

2001.

Radio Communications of Charleston, Inc.:



South Carolina Telephone Coalition:



M. John Bowen, Jr.

Margaret M. Fox

McNAIR LAW FIRM, P.A.

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Columbia, South Carolina 29211

(803) 799-9800

Attorneys for the South Carolina Telephone
Coalition

FROM : RCC/First Page

PHONE NO. : 8435533564

Jan. 07 2002 12:30PM P6

ATTACHMENT A

South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

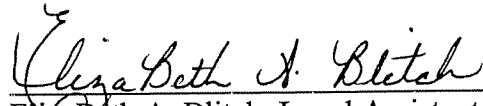
Docket No. 2001-440-C

Re: Application of Radio Communications of)
Charleston, Inc. for a Certificate of Public)
Convenience and Necessity to Provide Local)
Exchange Telecommunications Services in the)
State of South Carolina)
_____)

**CERTIFICATE OF
SERVICE**

I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

R. Patrick Flynn, Esquire
Robertson & Hollingsworth
177 Meeting Street, Suite 300
Charleston, South Carolina 29401



ElizaBeth A. Blitch, Legal Assistant
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January 15, 2002

Columbia, South Carolina